

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC.,)	
)	
Plaintiff,)	C.A. No. 04-901-JJF
)	
v.)	
)	
ILLUMINA, INC.,)	
)	
Defendant.)	

AFFYMETRIX'S PROPOSED VERDICT SHEET

Pursuant to D. Del. L.R. 51.1(c), Affymetrix, Inc. submits the attached Proposed Verdict Sheet, in triplicate. This document is also being submitted on disk in WordPerfect format.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Derek J. Fahnestock (#4705)

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Attorneys for Plaintiff Affymetrix, Inc.

INFRINGEMENT**INFRINGEMENT OF AFFYMETRIX'S '243 PATENT****Infringement of the '243 Patent**

1. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,646,243?

Answer the following question regarding infringement of the '243 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 16	Yes _____	No _____
Claim 35	Yes _____	No _____
Claim 39	Yes _____	No _____
Claim 43	Yes _____	No _____
Claim 53	Yes _____	No _____

2. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '243 patent under the doctrine of equivalents?

Answer the following question regarding infringement of the '243 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 16	Yes _____	No _____
Claim 35	Yes _____	No _____
Claim 39	Yes _____	No _____
Claim 43	Yes _____	No _____
Claim 53	Yes _____	No _____

3. Has Affymetrix proven by a preponderance of the evidence that Illumina has engaged in contributory infringement of any of the following claims of the '243 patent??

Answer the following question regarding infringement of the '243 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 16	Yes _____	No _____
Claim 35	Yes _____	No _____
Claim 39	Yes _____	No _____
Claim 43	Yes _____	No _____
Claim 53	Yes _____	No _____

4. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '243 patent?

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 16	Yes _____	No _____
Claim 35	Yes _____	No _____
Claim 39	Yes _____	No _____
Claim 43	Yes _____	No _____
Claim 53	Yes _____	No _____

Willful Infringement of the '243 Patent

5. If you found infringement by Illumina in response to any of questions 1 through 4 above, has Affymetrix proven by clear and convincing evidence that Illumina's infringement was willful?

Answer the following question regarding willful infringement of the '243 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Yes _____ No _____

INFRINGEMENT OF AFFYMETRIX'S '365 PATENT

Infringement of the '365 Patent

6. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,399,365?

Answer the following question regarding infringement of the '365 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 35	Yes _____	No _____
Claim 36	Yes _____	No _____
Claim 41	Yes _____	No _____
Claim 44	Yes _____	No _____
Claim 55	Yes _____	No _____

7. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '365 patent under the doctrine of equivalents?

Answer the following question regarding infringement of the '365 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 35	Yes _____	No _____
Claim 36	Yes _____	No _____
Claim 41	Yes _____	No _____

Claim 44 Yes _____ No _____
 Claim 55 Yes _____ No _____

8. Has Affymetrix proven by a preponderance of the evidence that Illumina has engaged in contributory infringement of any of the following claims of the '365 patent?

Answer the following question regarding infringement of the '365 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 35 Yes _____ No _____
 Claim 36 Yes _____ No _____
 Claim 41 Yes _____ No _____
 Claim 44 Yes _____ No _____
 Claim 55 Yes _____ No _____

9. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '365 patent?

Answer the following question regarding infringement of the '365 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 35 Yes _____ No _____
 Claim 36 Yes _____ No _____
 Claim 41 Yes _____ No _____
 Claim 44 Yes _____ No _____
 Claim 55 Yes _____ No _____

Willful Infringement of the '365 Patent

10. If you found infringement by Illumina in response to any of questions 6 through 9 above, has Affymetrix proven by clear and convincing evidence that Illumina's infringement was willful?

Answer the following question regarding willful infringement of the '365 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Yes _____ No _____

INFRINGEMENT OF AFFYMETRIX'S '432 PATENT

Infringement of the '432 Patent

11. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 6,355,432?

Answer the following question regarding infringement of the '432 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 2	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____
Claim 21	Yes _____	No _____

12. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '432 patent under the doctrine of equivalents?

Answer the following question regarding infringement of the '432 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 2	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____
Claim 21	Yes _____	No _____

13. Has Affymetrix proven by a preponderance of the evidence that Illumina has engaged in contributory infringement of any of the following claims of the '432 patent?

Answer the following question regarding infringement of the '432 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 2	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____
Claim 21	Yes _____	No _____

14. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '432?

Claim 2	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____
Claim 21	Yes _____	No _____

Willful Infringement of the '432 Patent

15. If you found infringement by Illumina in response to any of questions 11 through 14 above, has Affymetrix proven by clear and convincing evidence that Illumina's infringement was willful?

Answer the following question regarding willful infringement of the '432 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Yes _____ No _____

INFRINGEMENT OF AFFYMETRIX'S '531 PATENT**Infringement of the '531 Patent**

16. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,545,531?

Answer the following question regarding infringement of the '531 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1 Yes _____ No _____
 Claim 2 Yes _____ No _____

17. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '531 patent under the doctrine of equivalents?

Answer the following question regarding infringement of the '531 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1 Yes _____ No _____
 Claim 2 Yes _____ No _____

18. Has Affymetrix proven by a preponderance of the evidence that Illumina has engaged in contributory infringement of any of the following claims of the '531 patent?

Answer the following question regarding infringement of the '531 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1 Yes _____ No _____
 Claim 2 Yes _____ No _____

19. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '531 patent?

Answer the following question regarding infringement of the '531 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1 Yes _____ No _____
 Claim 2 Yes _____ No _____

Willful Infringement of the '531 Patent

20. If you found infringement by Illumina in response to any of questions 16 through 19 above, has Affymetrix proven by clear and convincing evidence that Illumina's infringement was willful?

Answer the following question regarding willful infringement of the '531 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Yes _____ No _____

INFRINGEMENT OF AFFYMETRIX'S '716 PATENT**Infringement of the '716 Patent**

21. Has Affymetrix proven by a preponderance of the evidence that Illumina has literally infringed any of the following claims of U.S. Patent No. 5,795,716?

Answer the following question regarding infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____

22. Has Affymetrix proven by a preponderance of the evidence that Illumina has infringed any of the following claims of the '716 patent under the doctrine of equivalents?

Answer the following question regarding infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____

23. Has Affymetrix proven by a preponderance of the evidence that Illumina has engaged in contributory infringement of any of the following claims of the '716 patent?

Answer the following question regarding infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____

24. Has Affymetrix proven by a preponderance of the evidence that Illumina has induced infringement of any of the following claims of the '716 patent?

Answer the following question regarding infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____

Willful Infringement of the '716 Patent

25. If you found infringement by Illumina in response to any of questions 21 through 24 above, has Affymetrix proven by clear and convincing evidence that Illumina's infringement was willful?

Answer the following question regarding willful infringement of the '716 patent with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Yes _____ No _____

DAMAGES

26. If you have found that Illumina has infringed at least one asserted claim from any of the '243, '365, '432, '531 and/or '716 patents, has Affymetrix proven by a preponderance of the evidence that it is entitled to lost profits damages?

Answer the following question regarding damages with a "Yes" or "No." "Yes" is a finding for Affymetrix. "No" is a finding for Illumina.

Yes _____ No _____

27. If you answered "Yes" to question number 26, what amount of lost profits has Affymetrix proven it is entitled to?

Amount \$ _____

28. For any infringing sales that Affymetrix has not sought lost profits damages for or to which you conclude that Affymetrix is not entitled to lost profits damages, what reasonable royalty has Affymetrix proven by a preponderance of the evidence that it is entitled to?

Royalty _____ %

Amount \$ _____

You must each sign this Verdict Form:

Dated: _____

_____ (foreperson) _____

VALIDITY - [FOR THE VALIDITY PHASE OF TRIAL]**VALIDITY OF AFFYMETRIX'S '243 PATENT****Anticipation of the '243 Patent**

1. Has Illumina proven by clear and convincing evidence that any of the following claims of the '243 patent are invalid on the ground of anticipation?

Answer the following question regarding validity of the '243 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 16	Yes _____	No _____
Claim 35	Yes _____	No _____
Claim 39	Yes _____	No _____
Claim 43	Yes _____	No _____
Claim 53	Yes _____	No _____

If you found any claim of the '243 patent invalid by reason of anticipation, state separately for each claim the specific art you find invalidates: _____

Obviousness of the '243 Patent

2. Has Illumina proven by clear and convincing evidence that any of the following claims of the '243 patent are invalid on the ground of obviousness?

Answer the following question regarding validity of the '243 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 14	Yes _____	No _____
Claim 15	Yes _____	No _____
Claim 16	Yes _____	No _____
Claim 35	Yes _____	No _____
Claim 39	Yes _____	No _____
Claim 43	Yes _____	No _____
Claim 53	Yes _____	No _____

If you found any claim of the '243 patent invalid by reason of obviousness, state separately for each claim the specific art you find in combination invalidates: _____

VALIDITY OF AFFYMETRIX'S '365 PATENT

Anticipation of the '365 Patent

3. Has Illumina proven by clear and convincing evidence that any of the following claims of the '365 patent are invalid on the ground of anticipation?

Answer the following question regarding validity of the '365 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 41 Yes _____ No _____

Claim 55 Yes _____ No _____

If you found any claim of the '365 patent invalid by reason of anticipation, state separately for each claim the specific art you find invalidates: _____

4. Has Illumina proven by clear and convincing evidence that any of the following claims of the '365 patent are invalid on the ground of obviousness?

Answer the following question regarding validity of the '365 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 35 Yes _____ No _____

Claim 36 Yes _____ No _____

Claim 41 Yes _____ No _____

Claim 44 Yes _____ No _____

Claim 55 Yes _____ No _____

If you found any claim of the '365 patent invalid by reason of obviousness, state separately for each claim the specific art you find in combination invalidates: _____

VALIDITY OF AFFYMETRIX'S '432 PATENT**Anticipation of the '432 Patent**

5. Has Illumina proven by clear and convincing evidence that any of the following claims of the '432 patent are invalid on the ground of anticipation?

Answer the following question regarding validity of the '432 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 2	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____
Claim 21	Yes _____	No _____

If you found any claim of the '432 patent invalid by reason of anticipation, state separately for each claim the specific art you find invalidates: _____

Obviousness of the '432 Patent

6. Has Illumina proven by clear and convincing evidence that any of the following claims of the '432 patent are invalid on the ground of obviousness?

Answer the following question regarding validity of the '432 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 2	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____
Claim 21	Yes _____	No _____

If you found any claim of the '432 patent invalid by reason of obviousness, state separately for each claim the specific art you find in combination invalidates: _____

VALIDITY OF AFFYMETRIX'S '531 PATENT

Anticipation of the '531 Patent

7. Has Illumina proven by clear and convincing evidence that any of the following claims of the '531 patent are invalid on the ground of anticipation?

Answer the following question regarding validity of the '531 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 1 Yes _____ No _____
Claim 2 Yes _____ No _____

If you found any claim of the '531 patent invalid by reason of anticipation, state separately for each claim the specific art you find invalidates: _____

Obviousness of the '531 Patent

8. Has Illumina proven by clear and convincing evidence that any of the following claims of the '531 patent are invalid on the ground of obviousness?

Answer the following question regarding validity of the '531 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 1 Yes _____ No _____
Claim 2 Yes _____ No _____

If you found any claim of the '531 patent invalid by reason of obviousness, state separately for each claim the specific art you find in combination invalidates: _____

VALIDITY OF AFFYMETRIX'S '716 PATENT**Anticipation of the '716 Patent**

9. Has Illumina proven by clear and convincing evidence that any of the following claims of the '716 patent are invalid on the ground of anticipation?

Answer the following question regarding validity of the '716 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____

If you found any claim of the '716 patent invalid by reason of anticipation, state separately for each claim the specific art you find invalidates: _____

Obviousness of the '716 Patent

10. Has Illumina proven by clear and convincing evidence that any of the following claims of the '716 patent are invalid on the ground of obviousness?

Answer the following question regarding validity of the '716 patent with a "Yes" or "No." "Yes" is a finding for Illumina. "No" is a finding for Affymetrix.

Claim 1	Yes _____	No _____
Claim 5	Yes _____	No _____
Claim 9	Yes _____	No _____
Claim 10	Yes _____	No _____

If you found any claim of the '716 patent invalid by reason of obviousness, state separately for each claim the specific art you find in combination invalidates: _____

You must each sign this Verdict Form:

Dated: _____

..... (foreperson)

.....

.....

.....

.....

COUNTERCLAIMS [FOR THE COUNTERCLAIMS PHASE OF TRIAL]

**INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS
WHERE ALLEGED WRONGFUL CONDUCT IS MONOPOLIZATION UNDER
SECTION 2 OF THE SHERMAN ACT**

**[THIS FORM IS TO BE FILLED OUT AND ANSWERED SEPARATELY
FOR EACH THIRD PARTY AS TO WHICH ILLUMINA ALLEGES THIS
CAUSE OF ACTION]**

We answer the questions submitted to us as follows:

1. Did Illumina and a third party have an economic relationship that probably would have resulted in an economic benefit to Illumina?

Yes No

If your answer to question 1 is yes, then answer question 1a. If you answered no, stop here, answer no further questions.

- 1a. The name of the third party with which Illumina had an economic relationship that probably would have resulted in an economic benefit to Illumina is:

2. Did Affymetrix know of the relationship?

Yes No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions.

3. Did Affymetrix intend to disrupt the relationship?

Yes No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions.

4. Were Illumina and Affymetrix engaged in economic competition?

Yes No

If your answer to question 4 is yes, then answer question 5. If you answered no, continue to question 7.

5. Did the economic relationship between Illumina and the third party that you identified in 1a, above, concern a matter involved in the competition between Illumina and Affymetrix?

Yes No

If your answer to question 5 is yes, then answer question 6. If you answered no, continue to question 7.

6. Was Affymetrix's purpose at least in part to advance its interest in competing with Illumina?

Yes No

7. Did Illumina prove the relevant market applicable to its claim that Affymetrix engaged in acts that violate Section 2 of the Sherman Act?

Yes No

If your answer to question 7 is yes, then answer question 7a. If you answered no, stop here, answer no further questions.

- 7a. The identity of the market is:

8. Did Affymetrix have monopoly power in the relevant market you identified in question 7a?

Yes No

If you answered yes, continue to question 9. If you answered no stop here, answer no further questions.

9. Did Affymetrix obtain monopoly power in the market you have identified by means of willful and intentional acts, rather than by lawful means, such as normal growth or development, as a consequence of having a superior product, business acumen, or through historical accident?

Yes No

If you answered yes, continue to question 10. If you answered no, stop here, answer no further questions.

10. The willful and intentional acts of Affymetrix that resulted in its obtaining monopoly power in the market you identified in 7a, above, is/are:

11. Did Affymetrix's wrongful conduct, as described by you in 10, cause the disruption of the potential economic relationship between Illumina and the third party that you identified in 1a, above?

Yes No

If you answered yes, continue to question 12. If you answered no, stop here, answer no further questions.

12. Was Affymetrix's wrongful conduct a substantial factor in causing harm to Illumina?

Yes No

If you answered yes, continue to question 13. If you answered no, stop here, answer no further questions.

13. Did Illumina suffer actual economic damages as a result of the disruption of its potential economic relationship with the third party that you identified in 1a, above?

Yes No

If you answered yes, continue to question 14. If you answered no, stop here, answer no further questions.

14. The amount of Illumina's actual economic damages as a result of the disruption of its potential economic relationship with the third party that you identified in 1a, above are:

\$ _____

INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS
WHERE ALLEGED WRONGFUL CONDUCT IS ATTEMPTED MONOPOLIZATION
UNDER SECTION 2 OF THE SHERMAN ACT

**[THIS FORM IS TO BE FILLED OUT AND ANSWERED SEPARATELY
FOR EACH THIRD PARTY AS TO WHICH ILLUMINA ALLEGES THIS
CAUSE OF ACTION]**

We answer the questions submitted to us as follows:

1. Did Illumina and a third party have an economic relationship that probably would have resulted in an economic relationship to Illumina?

Yes No

If your answer to question 1 is yes, then answer question 1a. If you answered no, stop here, answer no further questions.

- 1a. The name of the third party with which Illumina had an economic relationship that probably would have resulted in an economic benefit to Illumina is:

.....

2. Did Affymetrix know of the relationship?

Yes No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions.

3. Did Affymetrix intend to disrupt the relationship?

Yes No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions.

4. Were Illumina and Affymetrix engaged in economic competition?

Yes No

If your answer to question 4 is yes, then answer question 5. If you answered no, continue to question 7.

5. Did the economic relationship between Illumina and the third party that you identified in 1a, above, concern a matter involved in the competition between Illumina and Affymetrix?

Yes No

If your answer to question 5 is yes, then answer question 6. If you answered no, continue to question 7.

6. Was Affymetrix's purpose at least in part to advance its interest in competing with Illumina?

Yes No

7. Did Illumina prove the relevant market applicable to its claim?

Yes No

If your answer to question 7 is yes, then answer question 7a. If you answered no, stop here, answer no further questions.

- 7a. The identity of the market is:

8. Did Affymetrix have a specific intent to obtain monopoly power in the market you identified in question 7a?

Yes No

If you answered yes, continue to question 9. If you answered no, stop here, answer no further questions.

9. Did Affymetrix engage in any wrongful acts in furtherance of its attempt to obtain monopoly power in the market identified, in 7a, above?

Yes No

If you answered yes, continue to question 10. If you answered no, stop here, answer no further questions.

10. The wrongful act(s) of Affymetrix in furtherance of its attempt to obtain monopoly power in the relevant market identified in 7a, above, is/are:

11. Is there a reasonable probability that Affymetrix's wrongful act(s), as described by you in 10a, above, would result in a reasonable probability that monopolization of the relevant market described by you in 7a will sooner or later occur?

If you answered yes, continue to question 12. If you answered no, stop here, answer no further questions.

12. Did Affymetrix's wrongful act(s), as described by you in 10a., cause the disruption of the potential economic relationship between Illumina and the third party that you identified in 1a, above?

If you answered yes, continue to question 13. If you answered no, stop here, answer no further questions.

13. Was Affymetrix's wrongful conduct as described by you in 10a, a substantial factor in causing harm to Illumina?

If you answered yes, continue to question 14. If you answered no, stop here, answer no further questions.

14. Did Illumina suffer actual economic damages as a result of the disruption of its potential economic relationship with the third party that you identified in 1a, above?

If you answered yes, continue to question 15. If you answered no, stop here, answer no further questions.

15. The amount of Illumina's actual economic damages as a result of the disruption of its potential economic relationship with _____ are:

\$ _____

You must each sign this Verdict Form:

Dated: _____

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2007, I electronically filed the foregoing document using CM/ECF which will send notification of such filing(s) to the following:

Richard K. Herrmann
Morris James LLP

I also certify that copies were caused to be served on February 5, 2007 upon the following in the manner indicated:

BY HAND

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P.O. Box 2306
Wilmington, DE 19801-1494

BY FEDERAL EXPRESS (as of February 6, 2007)

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/s/Derek J. Fahnestock (#4705)

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